

ORIGINAL



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1 FENNEMORE CRAIG, P.C.
2 A Professional Corporation
3 Jay L. Shapiro (No. 014650)
4 Patrick J. Black (No. 017141)
5 3003 North Central Avenue, Suite 2600
6 Phoenix, Arizona 85012
7 Telephone (602) 916-5000
8 Attorneys for Far West Water and Sewer, Inc.

RECEIVED

Arizona Corporation Commission

DOCKETED

JAN 13 2009

AZ CORP COMMISSION
DOCKET CONTROL

DOCKETED BY

BEFORE THE ARIZONA CORPORATION COMMISSION

IN THE MATTER OF THE FORMAL
COMPLAINT OF SPARTAN HOMES
AND CONSTRUCTION, INC.,

DOCKET NO. WS-03478A-08-0256

COMPLAINANT,

MOTION AND CONSENT OF LOCAL
COUNSEL FOR TEMPORARY *PRO HAC*
VICE ADMISSION OF ANDREW
JOSEPH CAPESTRO PENDING FINAL
APPROVAL

vs.

FAR WEST WATER AND SEWER, INC.,

RESPONDENT.

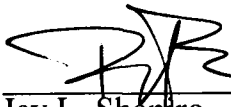
Patrick J. Black, pursuant to Rule 33 (c) and(d) Rules of the Supreme Court, moves the Arizona Corporation Commission (the "Commission") to admit ANDREW JOSEPH CAPESTRO as counsel pro hac vice in this action on a temporary basis pending final approval by the Commission for the purpose of conducting a deposition. This Motion is being filed at this time for the reason that the State Bar of Arizona has indicated it will take approximately two (2) weeks to finalize the application. The deadline for the filing of Direct Testimony on behalf of Far West Water & Sewer, Inc. ("Respondent") is January 23, 2008. However, Respondent requires the taking of Mr. Brian Householder's deposition in order to address certain issues in Direct Testimony. Therefore, a temporary grant of Mr. Capestro's pro hac vice status pending the filing of the State Bar of Arizona's original Notice of Receipt with the Commission, which is allowed pursuant to the Rules of the Supreme Court, would avert the need to delay the hearing currently scheduled for February 9, 2008. Counsel for Complainant has been contacted by the undersigned concerning this Motion, and does not object.

1 An original Verified Application and Certificate of Good Standing, along with a
2 check for the required fee, were submitted to the State Bar of Arizona on January 9, 2008,
3 copies of which are attached hereto as Exhibit A. The original documents will be filed
4 with the Commission upon receipt of the State Bar of Arizona's original Notice of Receipt
5 in approximately two weeks.

6 Patrick J. Black hereby agrees to serve as designated local counsel for the subject
7 case.

8 RESPECTFULLY SUBMITTED this 13th day of January, 2009.

9 FENNEMORE CRAIG, P.C.

10
11 By: 
12 Jay L. Shapiro
13 Patrick J. Black
14 Attorneys for Far West Water and Sewer, Inc.
15
16

17 **Original and 13 copies filed**
18 this 13th day of January, 2009 with:

19 Docket Control
20 Arizona Corporation Commission
21 1200 West Washington Street
22 Phoenix, Arizona 85007

23 **Copy hand-delivered**
24 this 13th day of January, 2009, to:

25 Ernest Johnson, Director
26 Utilities Division
27 Arizona Corporation Commission
28 1200 West Washington Street
Phoenix, Arizona 85007

Janice Alward, Chief Counsel
Legal Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

1 **Copy sent via email/mail this 13th day of**
2 **January, 2009 to:**

3 Belinda Martin, Administrative Law Judge
4 Hearings Division
5 Arizona Corporation Commission
6 400 West Congress
7 Tucson, Arizona 85701-1347

8 Jeffrey W. Crockett
9 Bradley S. Carroll
10 SNELL & WILMER, LLP
11 400 East Van Buren
12 One Arizona Center
13 Phoenix, Arizona 85004
14 Attorneys for Spartan Homes and Construction, Inc.

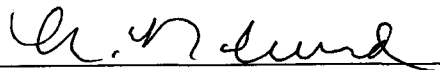
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By 

EXHIBIT A



4201 N 24th St Suite 200
Phoenix, AZ 85016-6288
Phone: 602-340-7239

For Official Use Only

App#

Bar Number#

Application for Appearance Pro Hac Vice

PART I: Applicant Information

Name of Applicant: Andrew Joseph Capestro

Firm/Company Name: n/a

Office Address: P.O. Box 791, Rancho Santa Fe, California 92067

Telephone: (858) 759-7703 Fax: (858) 759-7694 Email Address: acapestro@aol.com

Residence Address: 16071 Via Del Alba, Rancho Santa Fe, California 92967

Title of cause or case where applicant seeks to appear: In the Matter of the Formal Complaint of Spartan Homes and Construction, Inc. Against Far West Water and Sewer, Inc.

Docket Number: WS-03478A-08-0256

Court, Board, or Administrative Agency: Arizona Corporation Commission

Party on whose behalf applicant seeks to appear: Far West Water and Sewer, Inc.

Pursuant to Arizona Supreme Court Rule 38(i)(3), the applicant shall complete the information below:

Courts to Which Applicant Has Been Admitted:

(Attach additional pages if needed)

Date of Admission:

Bar Number:

California Supreme Court, including all inferior courts

12/21/67

40712

☒ Applicant is a member in good standing in such courts.

☒ Applicant is not currently disbarred or suspended in any court.

Applicant ☐ is / ☒ is not (select one) currently subject to any pending disciplinary proceeding or investigation by any court, agency or organization authorized to discipline attorneys at law.

In the preceding three (3) years, applicant has filed applications to appear as counsel under AZ ST S.Ct., Rule 38(a) in the following:

Title of Matter:

Docket #:

Court or Agency:

App Granted? (Y/N)

In re Estate of Henry Schechert

S1400PB02000307

Yuma County Superior Court (AZ)

Y

In the Matter of The Schechert Trust Agreement dated March 24, 1982

S1400PB2000000314

" "

Y

State of Arizona v. Far West Water and Sewer, Inc.

S1400CR200201238

" "

Y

1CA-CR-06-0160

Arizona Court of Appeals, Div. 1

Y

This case or cause ☐ is / ☒ is not (select one) a related or consolidated matter for which applicant has previously applied to appear pro hac vice in Arizona. If this matter is a related or consolidated with any previous application, Applicant certifies that he/she will review and comply with appropriate rules of procedure as required in the underlying cause.

PART II: Local Counsel InformationName of Arizona Local Counsel: Patrick J. BlackState Bar of Arizona Number: 017141Address: c/o Fennemore Craig, P.C., 3003 N. Central Ave., Ste. 2600
Phoenix, AZ 85012Telephone: (602) 916-5400 Fax: (602) 916-5600 Email Address: pblack@fcclaw.com☒ Local Counsel is a member in good standing.☒ Local Counsel associating with a nonresident attorney in a particular cause shall accept joint responsibility with the nonresident attorney to the client, to opposing parties and counsel, and to court, board, or administrative agency in that particular cause.**PART III: Parties and Certification**

Name(s) of each party in this cause and name and address of all counsel of record:

Party:	Counsel of Record:	Address:
<u>Far West Water and</u> <u>Sewer, Inc.</u>	<u>Jay L. Shapiro/</u> <u>Patrick J. Black</u>	<u>see above</u>
<u>Spartan Homes and</u> <u>Construction, Inc.</u>	<u>Jeffrey W. Crockett/</u> <u>Bradley S. Carroll</u>	<u>c/o Snell & Wilmer, LLP</u> <u>400 E. Van Buren</u> <u>Phoenix, AZ 85004</u>

☒ Applicant is including with this application a nonrefundable application fee, payable to the State Bar of Arizona, in the amount of \$460.00. Fifteen percent of the non-refundable application fee paid pursuant to this section shall be deposited into a civil legal services fund to be distributed by the Arizona Foundation for Legal Services and Education entirely to approved legal services organizations, as that term is defined in subparagraph (f) of this rule.☒ Applicant is furnishing a certificate from the state bar or from the clerk of the highest admitting court of each state, territory, or insular possession of the United States in which the nonresident attorney has been admitted to practice law certifying the nonresident attorney's date of admission to such jurisdiction and the current status of the nonresident attorney's membership or eligibility to practice therein. The certificate furnished shall be no more than forty-five (45) days old.

Applicant certifies the following:

1. Applicant shall be subject to the jurisdiction of the courts and agencies of the State of Arizona and to the State Bar of Arizona with respect to the law of this state governing the conduct of attorneys to the same extent as an active member of the State Bar of Arizona, as provided in Rule 46(b) Rules of the Supreme Court.
2. Applicant will review and comply with appropriate rules of procedure as required in the underlying cause.
3. Applicant understands and shall comply with the standards of conduct required of members of the State Bar of Arizona.

VerificationSTATE OF ARIZONA
County of YUMA ss.I, ANDREW J. CAPESTRO, swear that all statements in the application are true, correct and complete to the best of my knowledge and belief.Dated: 1-7-2009Applicant's Signature: Andrew J. CapestroSUBSCRIBED AND SWORN TO before me this 7th day of January, 2009, byANDREW J. CAPESTRO
Name of ApplicantNOTARY PUBLIC
STATE OF ARIZONA
Yuma County
Karyn J. Hathaway
My Commission Expires 11/17/11



THE STATE BAR OF CALIFORNIA

MEMBER SERVICES CENTER

180 HOWARD STREET, SAN FRANCISCO, CALIFORNIA 94105-1639

TELEPHONE: 888-800-3400

December 9, 2008

TO WHOM IT MAY CONCERN:

This is to certify that according to the records of the State Bar, ANDREW JOSEPH CAPESTRO, #40712 was admitted to the practice of law in this state by the Supreme Court of California on December 21, 1967; and has been since that date, and is at date hereof, an ACTIVE member of the State Bar of California; and that no recommendation for discipline for professional or other misconduct has ever been made by the Board of Governors or a Disciplinary Board to the Supreme Court of the State of California.

THE STATE BAR OF CALIFORNIA

Kath Lambert
Custodian of Membership Records

FAR WEST WATER & SEWER INC.

12486 FOOTHILLS BLVD.

YUMA, AZ 85367

(928) 342-1238

THE FOOTHILLS BANK

11689 S. FOOTHILLS BLVD

YUMA, AZ 85367

91-563/1221

29395

1/7/2009

PAY TO THE ORDER OF STATE BAR OF ARIZONA

\$ **460.00

Four Hundred Sixty and 00/100*****

DOLLARS



STATE BAR OF ARIZONA
ATT: PRO HAC VICE
4201 N 24TH ST SUITE 200
PHOENIX, AZ. 85016

MEMO

⑈029395⑈

⑆122105634⑆

⑈0000401015⑈

FAR WEST WATER & SEWER INC.

STATE BAR OF ARIZONA

1/7/2009

29395

Date	Type	Reference	Original Amt.	Balance Due	Discount	Payment
1/7/2009	Bill	010709	460.00	460.00		460.00
				Check Amount		460.00

Cash In Bank, Checki

460.00



29 West Thomas Road
Suite 203
Phoenix, Arizona 85013

Phone: 602.263.0012
Facsimile: 602.263.0013
www.bbattyservice.com

Date	1/9/08	Client File No	99501-022
Firm	Fennemore Craig, P.C.	Phone	602-916-5109
Address	3003 N. Central Ave., Ste 2600	City, State, Zip	Phoenix, AZ 85012
Attorney	Patrick Black	Secretary	Nikki Nolund
Court		County	
Plaintiff	Spartan Homes and Construction, Inc.	Defendant	Far West Water and Sewer, Inc.
Case No.	08-0256	Service Requested	<input checked="" type="checkbox"/> Rush Service <input type="checkbox"/> Routine Service
Service Requested	<input type="checkbox"/> File	<input type="checkbox"/> Issue	<input type="checkbox"/> Record
	<input type="checkbox"/> Return	<input type="checkbox"/> Serve	<input checked="" type="checkbox"/> Deliver
		<input type="checkbox"/> Certify	<input type="checkbox"/> Conform/Return
		<input type="checkbox"/> Deliver to Judge	Judges's Name
Filing Fees	Attached:	Advance:	Witness Fees Attached: Advance:
Documents Pro Hac Vice Application; Certificate of Good Standing; check for appropriate fees			
Special Instructions Please hand-deliver to State Bar of Arizona Membership Department; 4201 N. 24th St., Ste. 200, Phoenix; obtain signature for delivery receipt and return to Nikki asap. Thank you.			
Person/Entity to Serve		Last Day to Serve	
Home Address		Business Address	
Home Phone		Business Phone	
Served		Date	Time
Address			
Description (Office Use Only)	Sex	Age	Race
	Weight	Eyes	Hair
Signature for Receipt of Delivery		Time	

Cheryl Rehlert

Date 1/9/09 Time 9:00 AM